

AppL No. : 09/690,074  
Filed : October 16, 2000

## REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. After entry of this amendment, claims 27-34, 38, and 40-46 will remain pending in the case.

In response to the rejection, claim 27 has been amended to include the limitations of claims 35-37, thereby providing claim 27 with the scope of original claim 37. Claim 38 has been amended to include the limitations of claim 39, which is therefore cancelled. Claim 44 has been amended to include the limitations of claims 47 and 48, and to remove the limitations of the wireless communication of claim 37.

As discussed above, amended claim 27 now has the limitations of original claim 37. Claim 37 was rejected under 35 USC 103(a) as allegedly being unpatentable over Teicher in view of Pitoda and Price-Francis. However, this contention is respectfully traversed, and is respectfully suggested that the rejection does not meet the Patent Office's burden of providing a *prima facie* showing of unpatentability.

Teicher teaches the basic concepts of an electronic card, and shows that the electronic card includes an analog photograph printed thereon in a conventional way. The rejection reasons that Teicher shows an electronic photograph, and Pitoda has a liquid crystal display, so that the hypothetical combination could be used to show the photograph on the display. Further rejection is made over Price-Francis which again shows a conventional paper photograph.

Appl. No. : 09/690,074  
Filed : October 16, 2000

The problem in all of these systems, not recognized by any of the systems, is that the photograph on such a credit card can be seen at all times. There are multiple problems with this.

One problem is simply vanity: many people do not like to see their picture all the time. In this system, the picture is seen only when a transaction is requested.

Another problem is forgery. For example, in the photograph of Teicher, a clever forger could use a razor blade to remove the photograph and substitute a new one. Alternatively, since it is easy to view the photograph, a person might could disguise themselves as the user in the photograph.

In contrast, the subject matter does defined by claim 27 defines that the photograph is stored in memory, and that the display displays the user's picture "when a transaction is requested". Importantly, Teicher displays the user's picture all the time, not "when a transaction is requested" as defined by claim 27. As described above, the system used by Teicher could be relatively easily spoofed, while the system of claim 27 displays the picture when a transaction is requested.

Pitoda does teach storing certain information, and also displaying certain information on the liquid crystal screen. There is no teaching or suggestion, however, in Pitoda of storing a picture of the user, and displaying that picture on the screen.

Nowhere is there any teaching or suggestion of an electronically stored picture that is brought up when a transaction is requested, as defined by claim 27.

To summarize the above, therefore, no matter how combined, the hypothetical combination of prior art does not teach or suggest a credit card with a stored picture that is displayed in response to a request for a transaction. Therefore, the combination

Appl. No. : 09/690,074  
Filed : October 16, 2000

of prior art does not teach or suggest the subject matter now defined by claim 27, which should be in condition for allowance for these reasons.

In addition, it is respectfully suggested that there would be no reason and no incentive in the prior art to make the combination suggested by the rejection. MPEP 2143 is quite clear that a combination of references requires some suggestion either in the references or in the prior art itself of making the combination. Here, there is quite simply, no such suggestion. Teicher teaches an electronic card, with a nonelectronic photograph. There is quite simply no teaching or suggestion of why an electronic photograph would be desirable in Teicher. Similarly, Pitoda teaches certain electronic items, but teaches nothing about an electronic photograph. Finally, Price-Francis does not make up this missing teaching. Therefore, there is quite simply no suggestion in the prior art of making this combination. Therefore, the desirability of the combination comes from the present invention, not from the prior art.

Claim 38 specifies a credit card housing with a memory that stores information about the user's picture and displays the picture in response to a transaction. Claim 38 has the scope of original claim 39, and the reasons why this is not taught or suggested by the cited prior art have been extensively discussed above. For these reasons, it is respectfully suggested that claim 39 should be additionally allowable.

Claim 44 has been amended to remove the final limitation and to include the limitations of claims 47 and 48. As amended, these limitations are completely patentable over the prior art for reasons discussed in detail above.

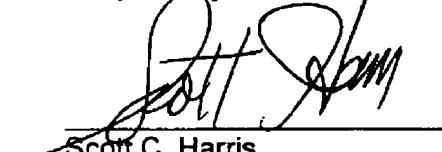
It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify

Appl. No. : 09/690,074  
Filed : October 16, 2000

agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the above amendments and remarks, therefore, all of claim should be in condition for allowance. A formal notice to that effect is respectfully solicited.

Respectfully submitted,



\_\_\_\_\_  
Scott C. Harris  
Reg. No. 32,030

Date: 4-09-04

Customer No. 23844  
Scott C. Harris, Esq.  
P.O. Box 927649  
San Diego, CA 92192  
Telephone: (619) 823-7778  
Facsimile: (858) 678-5082